

1
2
3
4
5
6
7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-330

13 **KATHRINE HEATHER PRATER, AKA**
14 **KATHRINE HEATHER KLUK PRATER,**
15 **AKA KATHRINE HEATHER KLUK**
YARBER, AKA KATHERINE PRATER,
AKA KATHERINE HEATHER PRATHER

DEFAULT DECISION AND ORDER

16 **360 Pleasant Valley Road**
17 **McDonough, GA 30253**

[Gov. Code, §11520]

18 **6213 Hermosa Drive**
19 **Ocean Springs, MS 39564**

20 **Registered Nurse License No. 603389**

21 **Respondent.**

22 **FINDINGS OF FACT**

23 1. On or about October 25, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her
24 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
25 Consumer Affairs, filed Accusation No. 2013-330 against Kathrine Heather Prater, aka Kathrine
26 Heather Kluk Prater, aka Kathrine Heather Kluk Yarber, aka Katherine Prater, aka Katherine
27 Heather Prather ("Respondent") before the Board of Registered Nursing. Accusation No. 2013-
28

1 330 is attached as Exhibit 1 to the Default Decision Investigatory Evidence Packet and is hereby
2 incorporated by reference.

3 2. On or about August 2, 2002, the Board of Registered Nursing ("Board") issued
4 Registered Nurse License No. 603389 to Respondent. The Registered Nurse License expired on
5 October 31, 2003, and has not been renewed. Pursuant to Business and Professions Code
6 ("Code") section 2764, the expiration of Respondent's license does not deprive the Board of
7 jurisdiction to proceed with this disciplinary proceeding or to render a decision imposing
8 discipline on the license.

9 3. On or about October 25, 2012, Respondent was served by Certified and First Class
10 Mail copies of the Accusation No. 2013-330, Statement to Respondent, Notice of Defense,
11 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
12 and 11507.7) at Respondent's address of record which, pursuant to California Code of
13 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
14 Respondent's address of record with the Board was and is:

15 **360 Pleasant Valley Road**
16 **McDonough, GA 30253.**

17 4. Service of the Accusation was effective as a matter of law under the provisions of
18 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

19 5. The aforementioned documents were not returned by the U.S. Postal Service marked
20 as undeliverable.

21 6. On or about October 25, 2012, Respondent was served by Certified and First Class
22 Mail copies of the Accusation No. 2013-330, Statement to Respondent, Notice of Defense,
23 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
24 and 11507.7) at Respondent's last known address which was and is:

25 **6213 Hermosa Drive**
26 **Ocean Springs, MS 39564**

27 7. On or about November 5, 2012, the Domestic Return Receipt, for the aforementioned
28 documents served via Certified Mail, was returned to the Board. The Domestic Return Receipt

1 was signed by Robert A. Kluck and indicates a date of delivery of October 30, 2012. The
2 aforementioned documents served via First Class Mail were not returned by the U.S. Postal
3 Service marked as undeliverable.

4 8. Government Code section 11506 states, in pertinent part:

5 (c) The respondent shall be entitled to a hearing on the merits if the respondent
6 files a notice of defense, and the notice shall be deemed a specific denial of all parts
7 of the accusation not expressly admitted. Failure to file a notice of defense shall
8 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
9 may nevertheless grant a hearing.

10 9. Respondent failed to file a Notice of Defense within 15 days after service upon her of
11 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2013-
12 330.

13 10. California Government Code section 11520 states, in pertinent part:

14 (a) If the respondent either fails to file a notice of defense or to appear at the
15 hearing, the agency may take action based upon the respondent's express admissions
16 or upon other evidence and affidavits may be used as evidence without any notice to
17 respondent.

18 11. Pursuant to its authority under Government Code section 11520, the Board finds
19 Respondent is in default. The Board will take action without further hearing and, based on the
20 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
21 taking official notice of all the investigatory reports, exhibits and statements contained therein on
22 file at the Board's offices regarding the allegations contained in Accusation No. 2013-330, finds
23 that the charges and allegations in Accusation No. 2013-330, are separately and severally, found
24 to be true and correct by clear and convincing evidence.

25 12. Taking official notice of its own internal records, pursuant to Business and
26 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
27 and Enforcement is \$697.50 as of November 15, 2012.

28 **DETERMINATION OF ISSUES**

1 Based on the foregoing findings of fact, Respondent Kathrine Heather Prater, aka
2 Kathrine Heather Kluk Prater, aka Kathrine Heather Kluk Yarber, aka Katherine Prater, aka
3 Katherine Heather Prather has subjected her Registered Nurse License No. 603389 to discipline.

1 2. The agency has jurisdiction to adjudicate this case by default.

2 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
3 Nurse License based upon the following violations alleged in the Accusation which are supported
4 by the evidence contained in the Default Decision Evidence Packet in this case.:

5 a. **Disciplinary Action by the Mississippi Board of Nursing.** Respondent is
6 subject to disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of
7 unprofessional conduct in that Respondent's registered nurse license was disciplined by the
8 Mississippi Board of Nursing ("Mississippi Board"). On or about March 6, 2008, pursuant to the
9 Final Order issued by the Mississippi Board, in the disciplinary action entitled, *In the Matter of*
10 *Mississippi License No. R-871168 (which lapsed on or about 12/31/2006), issued to: Katherine*
11 *Prater 6213 Hermosa Drive, Ocean Springs, MS 39564*, the Mississippi Board revoked
12 Respondent's registered nurse license. The basis for the discipline is that on or about October 3,
13 2005, Respondent was observed to be exhibiting bizarre behavior while on the night shift duty in
14 the mobile intensive care unit. Respondent was asked to submit to a drug screen, which was
15 positive for amphetamines and methamphetamines.

16 b. **Unprofessional Conduct.** Respondent is subject to disciplinary action under
17 Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct.
18 The conduct is more particularly described in paragraph 3, subparagraph (a), inclusive, above,
19 and herein incorporated by reference.

20 ///

21

22

23

24

25

26

27

28

ORDER

IT IS SO ORDERED that Registered Nurse License No. 603389, heretofore issued to Kathrine Heather Prater, aka Kathrine Heather Kluk Prater, aka Kathrine Heather Kluk Yarber, aka Katherine Prater, aka Katherine Heather Prather, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MARCH 29, 2013.

It is so ORDERED FEBRUARY 27, 2013

Louise H. Bailey, M.Ed., RN
FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51193438.DOC
DOJ Matter ID:LA2012507850

Exhibit A

Accusation Case No. 2013-330

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RANDY M. MAILMAN
Deputy Attorney General
4 State Bar No. 246134
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2442
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2013-330*

11 **KATHRINE HEATHER PRATER, AKA**
12 **KATHRINE HEATHER KLUK PRATER,**
13 **AKA KATHRINE HEATHER KLUK**
YARBER, AKA KATHERINE PRATER,
14 **AKA KATHRINE HEATHER PRATHER**
360 Pleasant Valley Road
McDonough, GA 30253

A C C U S A T I O N

15 6213 Hermosa Drive
16 Ocean Springs, MS 39564

17 Registered Nurse License No. 603389

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs.

25 2. On or about August 2, 2002, the Board of Registered Nursing issued Registered
26 Nurse License Number 603389 to Kathrine Heather Prater, aka Kathrine Heather Kluk Prater, aka
27 Kathrine Heather Kluk Yarber, aka Katherine Prater, aka Katherine Heather Prather
28

1 ("Respondent"). The Registered Nurse License expired on October 31, 2003, and has not been
2 renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code ("Code") unless otherwise indicated.

7 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
8 any licensee, including a licensee holding a temporary or an inactive license, for any reason
9 provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

10 STATUTORY PROVISIONS

11 5. Section 118, subdivision (b) of the Code provides, in pertinent part:

12
13 " (b) The suspension, expiration, or forfeiture by operation of law
14 of a license issued by a board in the department, or its suspension,
15 forfeiture, or cancellation by order of the board or by order of a
16 court of law, or its surrender without the written consent of the
17 board, shall not, during any period in which it may be renewed,
18 restored, reissued, or reinstated, deprive the board of its authority to
institute or continue a disciplinary proceeding against the licensee
upon any ground provided by law or to enter an order suspending or
revoking the license or otherwise taking disciplinary action against
the licensee on any such ground."

19 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
20 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
21 licensee or to render a decision imposing discipline on the license.

22 7. Section 2761 of the Code provides, in pertinent part:

23 "The board may take disciplinary action against a certified or
24 licensed nurse or deny an application for a certificate or license for
any of the following:

25 (a) Unprofessional conduct, which includes, but is not
26 limited to, the following:

27 ...

28 (4) Denial of licensure, revocation, suspension,
restriction, or any other disciplinary action against a health care
professional license or certificate by another state or territory of the

United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action ...”

8. Section 2811, subdivision (b) of the Code provides:

“Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.”

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section, 1419.3 provides:

“In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

(a) A licensee may renew a license that has not been expired for more than eight years by paying the renewal and penalty fees as specified in Section 1417 and providing evidence of 30 hours of continuing education taken within the prior two-year period.

(b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure.”

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Disciplinary Action by the Mississippi Board of Nursing)**

3 11. Respondent is subject to disciplinary action under Code section 2761, subdivision
4 (a)(4), on the grounds of unprofessional conduct in that Respondent's registered nurse license was
5 disciplined by the Mississippi Board of Nursing ("Mississippi Board").

6 12. On or about March 6, 2008, pursuant to the Final Order issued by the Mississippi
7 Board, in the disciplinary action entitled, *In the Matter of Mississippi License No. R-871168*
8 *(which lapsed on or about 12/31/2006), issued to: Katherine Prater 6213 Hermosa Drive, Ocean*
9 *Springs, MS 39564*, the Mississippi Board revoked Respondent's registered nurse license. The
10 basis for the discipline is that on or about October 3, 2005, Respondent was observed to be
11 exhibiting bizarre behavior while on the night shift duty in the mobile intensive care unit.
12 Respondent was asked to submit to a drug screen, which was positive for amphetamines and
13 methamphetamines.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct)**

16 13. Respondent is subject to disciplinary action under Code section 2761, subdivision
17 (a), in that Respondent committed acts of unprofessional conduct. The conduct is more
18 particularly described in paragraph 12, inclusive, above, and herein incorporated by reference.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 603389, issued to
23 Kathrine Heather Prater, aka Kathrine Heather Kluk Prater, aka Kathrine Heather Kluk Yarber,
24 aka Katherine Prater, aka Katherine Heather Prather;

25 2. Ordering Kathrine Heather Prater, aka Kathrine Heather Kluk Prater, aka Kathrine
26 Heather Kluk Yarber, aka Katherine Prater, aka Katherine Heather Prather to pay the Board of
27 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
28 pursuant to Business and Professions Code section 125.3; and


1 3. Taking such other and further action as deemed necessary and proper.

2

3

4

DATED: OCTOBER 25, 2012


for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

6

7

8

9

LA2012507850
51171239.doc

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28